

Tampering & Aftermarket Defeat Devices

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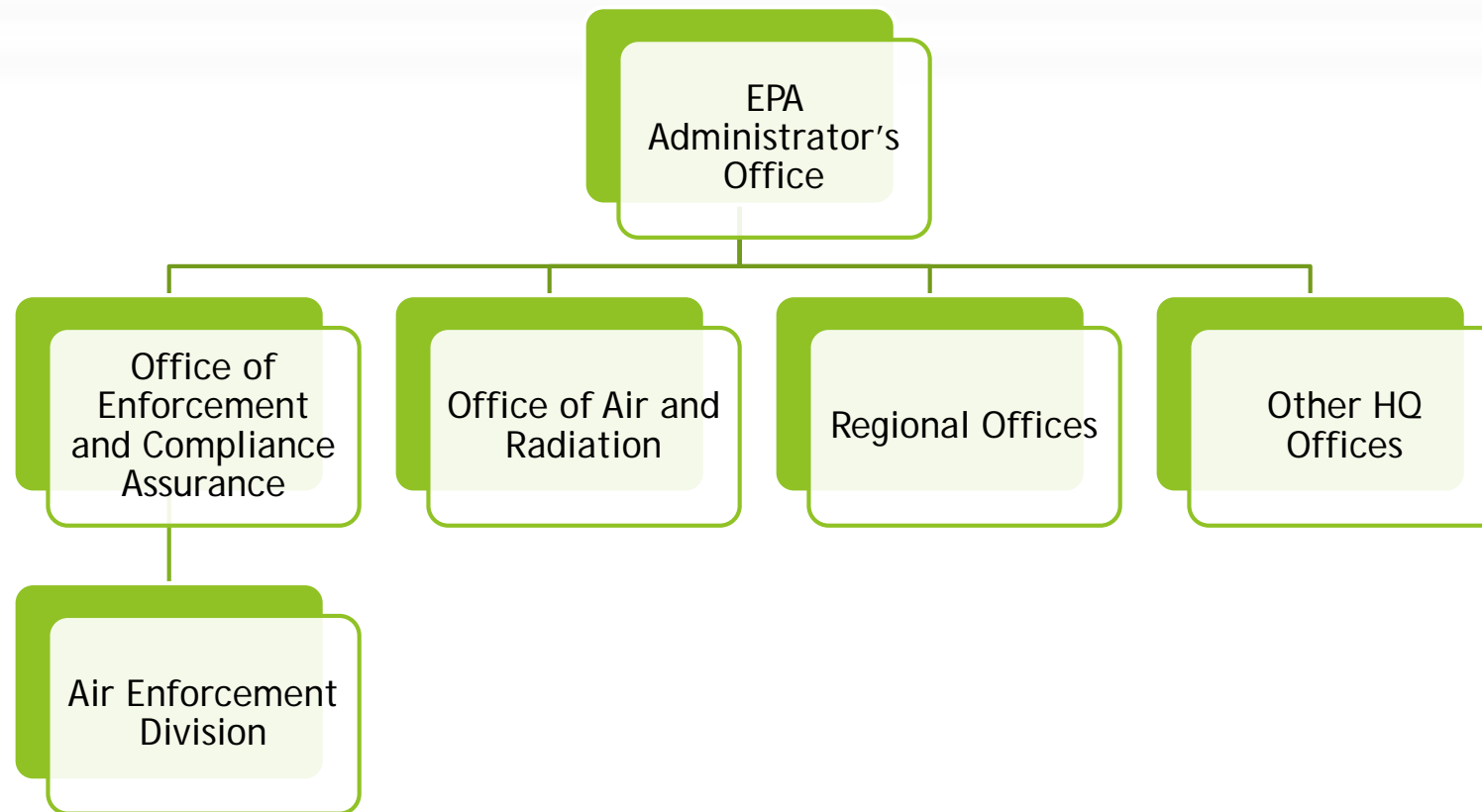
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Outline

- ❖ Overview: EPA, Public Health, and the Clean Air Act
- ❖ Defeat Device and Tampering Prohibitions
- ❖ Defeat Device and Tampering Examples
- ❖ Tampering Enforcement Policy
- ❖ Civil and Criminal Penalties
- ❖ Warranty Implications



Vehicle & Engine Enforcement



Air Quality & Public Health

- ▶ Heavy-duty highway engine emit large amounts of nitrogen oxides and particulate matter, both of which contribute to serious public health problems in the United States.
- ▶ These problems include premature mortality, aggravation of respiratory and cardiovascular disease, aggravation of existing asthma, acute respiratory symptoms, chronic bronchitis, and decreased lung function.
- ▶ Numerous studies also link diesel exhaust to increased incidence of lung cancer.



The Clean Air Act

- ▶ The Clean Air Act (CAA) was enacted by Congress in 1970, and amended in 1977 and 1990.
- ▶ Title II of the CAA – Mobile Source Provisions
 - ▶ On-highway (motor vehicles and motor vehicle engines) and nonroad (nonroad vehicles and nonroad engines) are regulated.
 - ▶ “Motor Vehicle” includes all cars, trucks, motorcycles
 - ▶ “Nonroad” includes construction equipment, lawn and garden, generators, marine, locomotive, recreational vehicles
- ▶ Today’s discussion is focused on aftermarket parts and service.



CAA Title II Prohibitions: Defeat Devices

The following acts and the causing thereof are prohibited –

- ▶ For any person to manufacture or sell, or offer to sell, or install, a part or component for a motor vehicle, where
 - ▶ A principle effect of the part or component is to bypass, defeat, or render inoperative any emission control device, and
 - ▶ The person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.

CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).



CAA Title II Prohibitions: Tampering

The following acts and the causing thereof are prohibited –

- ▶ For anyone to remove or render inoperative an emission control component on a certified motor vehicle or engine prior to sale or delivery to ultimate purchaser, or
- ▶ For anyone to knowingly remove or render inoperative any emission control component on a certified motor vehicle or engine after sale and delivery to the ultimate purchaser.

CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A).



Defeat Device and Tampering Examples

- ❖ Alterations to Fueling, Timing Strategy
- ❖ DPF Delete
- ❖ EGR Delete
- ❖ SCR Delete
- ❖ Alterations to OBD
- ❖ Software and Hardware



Defeat Device and Tampering Examples

- ❖ Service adjustments to engines that do not conform to the original equipment manufacturer's specifications;
- ❖ Installation of parts not built to OEM specifications;
- ❖ If a service provider discovers tampering while performing work on an emission system, the service provider must return that system to OEM specifications.



Memo 1A - Tampering Enforcement Policy

- ▶ Interim Tampering Enforcement Policy Memorandum 1A- (6/25/74)
- ▶ Memo 1A allows the sale and use of aftermarket parts when an individual or company has a “reasonable basis” to believe their actions do not increase emissions
- ▶ EPA issues no approvals under Memo 1A



Memo 1A Requirements

In order to prevent and protect yourself from violations of the prohibitions on tampering and defeat devices, you should have in your records:

- ▶ Emission test results from tests conducted in accordance with EPA's federal test procedure (FTP) showing that similar vehicles meet the standards for the vehicles' useful lives *or*
- ▶ An EPA Aftermarket Parts Certificate
- ▶ Generally, the testing required for a CARB EO is the same as the testing required under Memo 1A because the test procedures are usually the same

Vehicle must perform the same on- and off-cycle



Civil Penalties

- ▶ Max penalty for manufacturers or dealers is **\$45,268** per violative vehicle or engine.
- ▶ Max penalty for individuals is **\$4,527** per violative vehicle or engine.
- ▶ Max penalty per defeat device is **\$4,527**.
- ▶ Penalties are in addition to the cost of bringing the violative vehicle or engine back into compliance.
- ▶ Individuals, dealers, and manufacturers are also liable if they *cause* tampering or defeat device violations.



Criminal Prohibitions

- ▶ It is a crime to knowingly falsify, tamper with, render inaccurate, or fail to install any “monitoring device or method” required under the CAA.
 - ▶ CAA § 113(c)(2)(C), 42 U.S.C. § 7413(c)(2)(C).
- ▶ Vehicle Onboard Diagnostics (OBD) are a “monitoring device or method” required by the CAA.



Warranty Implications

- ▶ Consumers and service technicians should investigate warranty implications in advance.
- ▶ Tampering can void manufacturer warranties and insurance agreements if the tampering can be shown to have caused the failure.



Report Violations

- ▶ tampering@epa.gov
- ▶ Report violations online:
<https://www.epa.gov/enforcement/report-environmental-violations>
- ▶ Contact me at (202) 564-6850, belser.evan@epa.gov

